

**Introduced by Senator Margett**

February 22, 2008

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An act to amend Section 136.5 of the Streets and Highways Code, relating to public contracts.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1613, as introduced, Margett. Department of Transportation: contracts.

Existing law generally requires contracts for public works to be awarded pursuant to various procedures in the State Contract Act. Existing law exempts certain types of contracts awarded by the Department of Transportation from the State Contract Act, including contracts for major damage mitigation, equipment leasing or renting, and removal or relocation of structures or improvements on highway rights-of-way. These exempt contracts are generally required to be awarded to the lowest responsible bidder after competitive bidding on any reasonable notice prescribed by the department, but only if the estimated amount of the contract exceeds \$2,500.

This bill would increase this amount to \$25,000.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 136.5 of the Streets and Highways Code
- 2     is amended to read:
- 3     136.5. (a) The contracts referred to in Sections 135, 136, and
- 4     136.1 are not subject to the State Contract Act (Part 2 (commencing
- 5     with Section 10100) of Division 2 of the Public Contract Code).

1 Except for emergency work of the type described in subdivision  
2 (b), whenever the estimated amount of a contract exceeds ~~two~~  
3 ~~twenty-five thousand five hundred dollars (\$2,500)~~ (\$25,000), it  
4 shall be awarded to the lowest responsible bidder, after competitive  
5 bidding on any reasonable notice that the department may  
6 prescribe. Posting of notice for five days in a public place in the  
7 district office within which the work is to be done, or the equipment  
8 used, is sufficient. Those contracts shall be subject to the applicable  
9 payment bond provisions of Chapter 7 (commencing with Section  
10 3247) of Part 4 of Division 3 of the Civil Code. The department  
11 may require faithful performance bonds when considered  
12 necessary. The advertisement for each contract shall state whether  
13 or not a bond shall be required.

14 (b) In cases of emergency work necessitated by the imminence  
15 or occurrence of a landslide, flood, storm damage, accident, or  
16 other casualty, tools or equipment may be rented for a period of  
17 not to exceed 60 days without competitive bidding, and the  
18 department may waive the requirements of Chapter 7 (commencing  
19 with Section 3247) of Part 4 of Division 3 of the Civil Code to the  
20 extent that a contractor may commence performance of the work  
21 under the contract for the rental of tools or equipment prior to  
22 filing a payment bond with the department. In that case, no  
23 payment shall be made to the contractor until a payment bond  
24 covering all work of the contract is filed with the department.